

IN THE MATTER OF BLAIR

**In the Matter of the Application for the Deportation of  
LORETTA BLAIR**

Civil Appeal No. 293

Appellate Division of the High Court

Yap District

June 14, 1979

Appeal from deportation order. The Appellate Division of the High Court, Gianotti, Associate Justice, held that deportation was moot and would not be considered where person had voluntarily left the territory pending appeal and could not reenter without an administrative reentry permit.

**Appeal and Error—Reviewability of Issues—Moot Questions**

On appeal from deportation order, where, notwithstanding stay of the order by the court, the person voluntarily left the territory, and she could not return to Yap, from which she was ordered deported, without obtaining administrative reentry authorization, any decision by appellate division would be futile as to her permission to remain in Yap under her original right to enter; and the deportation issue was moot and would not be considered.

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*Counsel for Appellants:* CHARLES K. NOVO-GRADAC, *Office of the Public Defender*

*Counsel for Appellees:* ELON A. PLACE, *District Attorney, Yap*

Before BURNETT, *Chief Justice*, GIANOTTI, *Associate Justice*, and LAURETA, *Designated Judge*

GIANOTTI, *Associate Justice*

This is an appeal from a deportation order issued out of the High Court, Yap District, on or about December 20, 1978. A stay of said deportation was subsequently ordered by said Court. Notwithstanding the stay order and prior to the hearing on appeal, appellant, apparently on her own volition, left Yap and no longer is physically present in the Trust Territories or Micronesia. Counsel agree that she could not now return to Yap without first obtaining administrative reentry authorization.

Appellant raised four issues in her appeal. However, by leaving Yap and the Trust Territories, any decision rendered by this Appellate Division would in effect be a lesson in futility as to appellant's permission to remain in Yap under her original right to enter. The question of deportation is no longer applicable to her, and the issue of the deportation order pertaining to her is moot. This being moot, we will not consider her appeal.

Further, more compelling, reason for holding this appeal abandoned is found in the absence of appellant from our jurisdiction. In a similar situation, where appellant had escaped from custody, the Supreme Court said, in *Smith v. United States*, 94 U.S. 97,

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“Under such circumstances we are not inclined to hear and decide what may prove to be only a moot case.”

More recently, in *Eisler v. United States*, 338 U.S. 189, 69 S. Ct. 1453, where Eisler fled the country after the Supreme Court granted certiorari and after submission on the merits, the cause was removed from the docket “since petitioner may have rendered moot any judgment on the merits.” The writ was subsequently dismissed. *Kaneshima v. Trust Territory*, 5 T.T.R. 99, 102 (App. Div. 1970).

As cited in *Dorman v. Young*, 332 P.2d 480 at 481, under *Mills v. Green*, 159 U.S. 651, 16 S. Ct. 132, 40 L. Ed. 293, the court said:

The duty of this court, as of every other judicial tribunal, is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of rules of law which cannot affect the matter in issue in the case before it. It necessarily follows that when, pending an appeal from the judgment of a lower court, and without any fault of the defendant, an event occurs which renders it impossible for this court, if it should decide the case in favor of plaintiff, to grant him any effectual relief whatever, the court will not proceed to a formal judgment, but will dismiss the appeal. . . .

However, the instant decision applies only to the immediate case. The same question or controversy could arise in the future and the then appellant would not be precluded from exercising his or her right of appeal. Only by abandoning her position, i.e., departing Yap and the Trust Territory, did this appellant render a determination as to the legality of her deportation order moot, and such determination of mootness cannot be applied ad hoc to an entirely different fact situation.

(See *Sosna v. Iowa*, 419 U.S. 393, 42 L. Ed. 2d 532, 95 S. Ct. 553, Footnote 2.)

This Court is also aware of the ruling of the Appellate Division, High Court, in *Trust Territory v. Skiadopoulos*, 7 T.T.R. 240, 242 (App. Div. 1975). However, to quote *Ski-*

*adopulus*, p. 242, "A review of that case shows a decidedly different set of circumstances than those in this appeal."

This appeal is therefore dismissed.